



Dnay

1771

TRANSMITTAL LETTER			Case No. 659/766
Serial No. 09/753,134	Filing Date December 29, 2000	Examiner Lynda Salvatore	Group Art Unit 1771
Inventor(s) Gary L. Shanklin			
Title of Invention Antimicrobial Absorbent Article, And Methods Of Making And Using The Same			

TO THE COMMISSIONER FOR PATENTS

Transmitted herewith is Request for Reconsideration and return postcard.

- Small entity status of this application under 37 CFR § 1.27 has been established by verified statement previously submitted.
- Applicant claims small entity status. See 37 CFR 1.27.
- Petition for a _____ month extension of time.
- No additional fee is required.
- The fee has been calculated as shown below:

	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra
Total		Minus		
Indep.		Minus		
First Presentation of Multiple Dep. Claim				

Small Entity		or	Other Than Small Entity	
Rate	Add'l Fee		Rate	Add'l Fee
x \$9 =			x \$18 =	
x 43 =			x \$86 =	
+ \$145 =			+ \$290 =	
Total add'l fee		\$	Total add'l fee	

- Please charge Deposit Account No. 23-1925 (BRINKS HOFER GILSON & LIONE) in the amount of \$ _____. A duplicate copy of this sheet is enclosed.
- A check in the amount of \$ _____ to cover the filing fee is enclosed.
- The Commissioner is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this communication or credit any overpayment to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.
- I hereby petition under 37 CFR § 1.136(a) for any extension of time required to ensure that this paper is timely filed. Please charge any associated fees which have not otherwise been paid to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Jonathan P. Taylor, Ph.D.
Registration No. 48,338
Agent for Applicant
Customer No. 00757 - Brinks Hofer Gilson Lione

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to:
Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 5, 2004.

Date: 4/5/04

Signature:

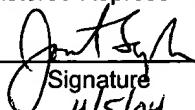
I hereby certify that this correspondence is being deposited with the United States Postal Service, with sufficient postage, as first class mail in an envelope addressed to:

Commissioner for Patents, P.O. Box 1450
Alexandria, VA 22313-1450
on April 5, 2004

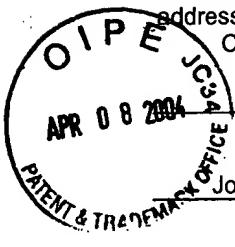
Date of Deposit

Jonathan P. Taylor, Ph.D., Reg. No. 48,338

Name of applicant, assignee or
Registered Representative


Signature
4/5/04

Date of Signature



Our Case No. 659/766

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Gary L. Shanklin)		
Serial No.	09/753,134)	Examiner Lynda Salvatore
Filing Date:	December 29, 2000)	Group Art Unit No. 1771
For	ANTIMICROBIAL ABSORBENT ARTICLE, AND METHODS OF MAKING AND USING THE SAME)	

REQUEST FOR RECONSIDERATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This communication is in response to the Office Action mailed on February 18, 2004. Applicants respectfully request that the Examiner reconsider the rejections in view of the following remarks, as set forth below.

REMARKS

Applicants would like to thank Examiner Salvatore for withdrawing the previous rejections of Rothe et al. (U.S. Pat. No. 4,738,847) in view of WO 99/37860 and of Rothe et al. in view of Roe et al. (U.S. Pat. No. 5,635,191). As part of this withdrawal, it is noted that the Declaration Pursuant to 37 CFR 1.131 from inventor Gary L. Shanklin has been accepted. This Declaration establishes that the inventor had completed the invention described and claimed in the present application prior to July 29, 1999, the publication date of WO 99/37860.

Rejections under 35 U.S.C. § 103

Rejection over Rothe et al. and Goulet et al.

Claims 1-3, 5, 6, 10-20, 22 and 35-47 were rejected under 35 U.S.C. § 103(a) over Rothe et al. in view of Goulet et al. (U.S. Pat. No. 6,054,020). As in the previous rejection involving WO 99/37860, which corresponds to U.S. Pat. No. 6,054,020, the Office Action asserts that Rothe et al. teaches a multi-ply absorbent article containing a virucidal composition in an inner layer, and that Goulet et al. teaches a multi-ply absorbent article containing an amine-modified polysiloxane in an outer layer.

The rejection of the claims over Rothe et al. and Goulet et al. is respectfully traversed, as Goulet et al. is **not** a proper reference under 35 U.S.C. § 103. As established in the Declaration Pursuant to 37 CFR 1.131, the claimed invention was completed prior to July 29, 1999, which is earlier than the issue date of April 25, 2000 of Goulet et al.. Accordingly, Goulet et al. is not a proper reference under 35 U.S.C. § 102(a). Moreover, the present application and U.S. Patent. No. 6,054,020 were, at the time the invention of the present application was made, commonly owned by Kimberly-Clark Worldwide, Inc. Accordingly, under 35 USC § 103(c), Goulet et al. cannot be used, alone or in combination with other references, in a rejection under 35 U.S.C. § 103. Applicants respectfully request that this rejection be withdrawn.

Rejection over Rothe et al., Goulet et al. and Roe et al.

Claim 4 was rejected under 35 U.S.C. § 103(a) over Rothe et al. in view of Goulet et al., and further in view of Roe et al.. The Office Action asserts that Roe et al. teaches a disposable diaper having a top sheet containing a polysiloxane as part of an emollient composition, an inner sheet formed by an absorbent core, and a liquid impervious back sheet. Rothe et al. and Goulet et al. were asserted as in the rejection of claims 1-3, 5, 6, 10-20, 22 and 35-47.

The rejection of the claims over Rothe et al., Goulet et al. and Roe et al. is respectfully traversed, as Goulet et al. is not a proper reference under 35 U.S.C. § 103. Claim 4 ultimately depends from claim 1, which recites an amine-modified polysiloxane applied to an outer ply. Neither Rothe et al. nor Roe et al. teach or suggest an amine-modified polysiloxane applied to an outer ply, where the amine-modified polysiloxane has the formula recited in claim 1. Accordingly, claim 4 is not obvious over Rothe et al. in view of Roe et al., as the references do not teach or suggest each and every element of the claim. Applicants respectfully request that this rejection be withdrawn.

CONCLUSION

In conclusion, all of the grounds raised in the outstanding Office Action for rejecting the application are believed to be overcome or rendered moot based on the remarks above. Thus, it is respectfully submitted that all of the presently presented claims are in form for allowance, and such action is requested in due course. Should the Examiner feel a discussion would expedite the prosecution of this application, the Examiner is kindly invited to contact the undersigned.

Respectfully submitted,

4/5/04



Jonathan P. Taylor, Ph.D.
Registration No. 48,338
Agent for Applicant

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200